

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

BIANCA STEWART and THE
GLADIATOR’S HUB, INC.,

Plaintiffs,

v.

KATINA STUCKEY-SMITH

Defendant.

CASE NO.:

Civil Action

COMPLAINT

COMPLAINT

Bianca Stewart (“Stewart”) and The Gladiator’s Hub, Inc. (“Gladiator’s Hub”) or (the “Hub”) (collectively “Plaintiffs”), do hereby say and allege, by way of Complaint against Defendant Katina Stuckey-Smith (“Defendant”) as follows:

VENUE AND SUBJECT MATTER JURISDICTION

1. Plaintiff Stewart is a natural person residing at 515 Rolling Peaks Way, Scotch Plains, New Jersey 07076.
2. Plaintiff the Gladiator’s Hub is a 501(c)(3) not-for-profit organization incorporated in the State of Arizona, however the organization is headquartered and operating from Plaintiff Stewart’s residence in the State of New Jersey.
3. Plaintiff Stewart is the President of the Gladiator’s Hub and the Chairperson of the Hub’s Board of Directors.
4. Defendant Smith is a natural person residing in the State of Georgia at 113 Cedar Creek Drive, Dublin, Georgia 31021.
5. This Court has diversity jurisdiction over the subject matter of this action as there is

total diversity of citizenship of the parties, and the amount in controversy exceeds \$75,000.00.

BACKGROUND FACTS

6. This action arises from numerous false and libelous statements made by Defendant regarding the Plaintiffs following the tragic and untimely death of former star NFL wide receiver Demaryius Thomas (“Thomas”), who passed away on December 9, 2021.

7. After his death, Thomas was diagnosed with chronic traumatic encephalopathy (“CTE”). However, Thomas’ death was caused by a seizure, which is not typically thought to be a symptom of CTE.¹

8. Plaintiff Stewart is Thomas’ college sweetheart and longtime girlfriend.

9. Stewart and Thomas were both high level student athletes at Georgia Tech, where they met and first became romantically involved in 2009.

10. From 2009 until the date of Thomas’ death, Stewart and Thomas maintained a deeply intimate relationship and close friendship.

11. Defendant Smith is Thomas’ mother.

12. When Thomas was eleven years old, Smith was arrested (and later convicted) of distribution of crack-cocaine and was sentenced to twenty (20) years in prison.²

13. As a result of her conviction and jail sentence, Smith had little personal involvement in Thomas’ life, upbringing, and path to success as a standout professional athlete.

14. In 2016, Smith was released from prison when President Obama commuted her sentence in response to an appeal by letter from Thomas, who had longed for years to develop a relationship with his mother.

¹ <https://nypost.com/2021/12/10/demaryius-thomas-cause-of-death-cousin-says-he-had-seizure>;
<https://www.nytimes.com/2022/07/05/sports/football/demaryius-thomas-cte-nfl.html>

² <https://www.theplayerstribune.com/articles/demaryius-thomas-mom-broncos>

15. In 2019, Thomas played his last game in the NFL after being traded to the New York Jets.

16. Although he did not formally retire until June 2021, Thomas' career as a professional athlete was effectively over by 2020, at which time he was forced off the field due to neurological issues which resulted in intermittent seizures.

17. As his professional career was winding down and his health problems began to emerge, Thomas became concerned about the trajectory of his life after football.

18. Thomas was particularly disillusioned with his social support as he felt that friends and family members, who had attached themselves closely to him during the heights of his success in the NFL, began to distance themselves as he faded from the limelight.

19. At this critical juncture of Thomas' life, feeling outcast and abandoned, he turned to Stewart, his lifelong friend and romantic partner, for grounding and support, and to assist him with his medical recovery and in planning for his future.

20. At this time, in or around December 2020, Stewart was working as an entrepreneur developing a fashion line for tall women and female athletes.

21. Although they were not dating at the time, during a personal crisis, Thomas reached out to Stewart, explained the severity of his health issues and his feelings of isolation, and invited Stewart to his home in Georgia to spend time with him.

22. Upon arriving in Georgia, Stewart found Thomas to be in poor physical health and struggling to cope with stress and depression.

23. Thomas had become distrustful of friends and family members who were constantly seeking financial assistance, and most troublingly, was suffering from recurring seizures which caused him to lose consciousness.

24. In or around February 2021, Stewart spent a weekend at Thomas' home and watched him suffer a seizure in her presence. After witnessing this incident, Stewart felt compelled to move to Georgia to care for Thomas in a full-time capacity.

25. In relocating to Georgia, Stewart sacrificed her own professional aspirations and passed on opportunities to further develop her brand and clothing line, which had attracted interest from some of America's most prominent retail merchandisers.

26. After moving in with Thomas, Stewart began to care for him and to assist him in seeking out medical treatment and in managing his personal affairs.

27. By the spring of 2021, in light of his own health struggles, Thomas had decided that a large part of his life's mission, post-football, would be to develop a charity for professional athletes dealing with head trauma and brain and mental health issues.

28. Thomas was particularly intrigued by chronic traumatic encephalopathy ("CTE"), a condition which he felt was a potential cause of his seizures.

29. In furtherance of these plans, in or around May 2021, Thomas began to work with counselors and professional advisers to develop a business plan and marketing strategy for a non-profit organization that would work towards promoting awareness and understanding of neurodegenerative diseases affecting professional athletes, including but not limited to CTE.

30. Thomas ultimately decided to name this organization "The Gladiator's Hub" as his vision was to create a charity "by athletes, for athletes," whom he considered akin to modern day gladiators.

31. During the summer of 2021, Thomas, Stewart and their advisors extensively researched properties in Arizona and Tennessee which they hoped would serve as the physical site and headquarters for the Hub.

32. Thomas had hoped to acquire a large estate that he could build into a joint healthcare facility, recovery center, and retreat for athletes with neurological diseases.

33. While they reviewed potential sites extensively, Thomas, Stewart and their advisors worked contemporaneously on research projects seeking to aggregate and synthesize a small but growing body of available medical and scientific data on CTE and related neurodegenerative conditions affecting professional athletes.

34. Thomas continued his aggressive efforts in researching CTE, and work in developing the blueprint for their charity, despite the increase in seizure activity he experienced in his own life due to lack of proper medical care.

35. In an effort to recover and maintain his health Thomas chose to distance himself from friends and family to avoid the stress and the pressure brought on by friends and relatives who had become accustomed to receiving financial support.

36. Thomas attributed the stress of this incident to causing one of his first seizures.

37. During this period, Stewart had taken on the role of caretaker and personal assistant to Thomas.

38. Although Smith resided within driving distance of Thomas' home in Roswell Georgia, and was aware of his health problems, she expressed little interest in assisting in caring for her son's health, nor was she thought capable of meaningfully contributing, although she expressed genuine appreciation for Stewart's efforts.

39. In or around October 2021, after having lived together for some nearly six months, Stewart and Thomas had become reattached romantically and had made plans to become engaged. They planned for a wedding and dreamed of raising a family together.

40. After Thomas had arranged appointments to design a custom engagement ring for

Stewart, she became convinced of his sincerity, and moved to formally wrap up her own affairs abroad, anticipating a life together with Thomas.

41. Tragically, in late November 2021, Stewart's grandmother fell ill and she left for a trip to New Jersey to attend to her.

42. Nearly a week after her departure from Georgia, on December 9, 2021 Stewart learned that Thomas had passed away from a seizure.

PASSING OF THOMAS, SMITH'S DEFAMATION OF STEWART

43. After learning of Thomas' death, Stewart returned to Georgia to grieve with friends and family and to help manage Thomas' personal affairs in his absence.

44. On or around December 12, 2021, Smith falsely advised Peter Wright ("Wright") (later appointed as the executor of Thomas' Estate) that Bobby Thomas (Demaryius' father), had stolen cars, money, and a Rolex from Thomas' residence, prompting Wright to lock the residence and to force Stewart and her family members out of the home (which Stewart had made recently her primary residence), against Bobby Thomas' wishes.

45. After this false claim, Stewart confronted Smith, scolded her for lying about Bobby Thomas' conduct and accused her of having caused undue stress to her son through similar behavior, which she told Smith likely exacerbated Thomas' seizures.

46. As a result, Stewart was locked out from the property, denied the opportunity to collect her personal belongings and was forced to seek new housing accommodations.

47. Following the lockout, Smith continued to disparage Stewart, falsely telling Wright and other relatives that Stewart had stolen property from Thomas' residence.

48. After Thomas' death, Smith continued to spread, by mouth and in writing, false

statements about Stewart, alleging that Stewart did not truly love her son, but merely sought to swindle him for money, and that her son did not truly care for Stewart.

49. Smith knew or should have known of her son's intention to marry Stewart at the time she made these statements.

50. At or around the time of Thomas' funeral, Smith falsely alleged that before and during her time living with Thomas, Stewart had been having an affair with a married professional athlete (a longtime mutual friend of Stewart and Thomas, with whom Stewart has never been romantically involved).

51. At or around this time, Smith also told Wright and Bobby Thomas that Stewart had stolen Thomas' personal cell phone.

52. This prompted Bobby Thomas to call Stewart to demand that she return the phone, at which time Stewart advised him of the falsity of the allegation, and told him where the phone was located at Thomas' residence.

53. Smith communicated the above slanderous statements verbally and in written text messages and email messages to Wright, Bobby Thomas, and other friends, relatives and members of Thomas' entourage.

54. Smith knew or should have known of the falsity of these statements.

55. Smith further directed Wright to falsely advise Stewart that Thomas had been buried (in fact, he was cremated) such that Stewart would not be able to receive Thomas' ashes.

56. Smith has also falsely accused Stewart of attempting to film an "expose documentary" to discredit her. In fact, Stewart has received offers to appear in a documentary film about the last year of Thomas' life, having nothing to do with Smith.

SMITH'S DEFAMATION OF THE GLADIATOR'S HUB

57. In or around October 2021, Thomas forwarded to Wright a 164-page PowerPoint presentation and slide deck for the Gladiator's Hub that he had been working on along with Stewart and his advisors since May 2021.

58. The slide deck contained a breadth of information outlining Thomas' vision for the organization, potential site locations for the facility, and details and background research discussing CTE and potential avenues for assisting athletes with rehabilitation from head trauma, brain injuries and associated neurological conditions.

59. In or around October 2021, Thomas and Wright sought the assistance of legal counsel for the purpose of planning Thomas' estate and for consultation in how to go about financing Thomas' charitable activities through the Gladiator's Hub and other endeavors.

60. Upon information and belief, Thomas passed away before his Estate planning goals could be legally formalized.

61. Accordingly, when Thomas died, he had not been able to firm up his financial commitment to the Gladiator's Hub, which he had hoped to provide for through the creation of one or more charitable trusts.

62. In or around December 2021, Wright was appointed as the executor of Thomas' estate.

63. As mentioned above, prior to becoming Thomas' executor, Wright was aware of the Gladiator's Hub and of Thomas' intent to provide financially for the organization.

64. In or around January 2022, Stewart reached out to Bobby Thomas to advise him that she was continuing to work to advance Thomas' legacy and vision by working to bring his dream of forming the Gladiator's Hub into reality.

65. Bobby Thomas volunteered to assist Stewart with fundraising efforts and with

the management of the Gladiator's Hub.

66. In March 2022, Bobby Thomas was appointed to and agreed to serve on the Hub's Board of Directors.

67. Having secured commitments from Bobby Thomas and from other friends and associates, Stewart proceeded to formally incorporate the Gladiator's Hub as a not-for-profit 501(c)(3) charitable organization, obtaining formal approval for 501(c)(3) status with the IRS.

68. The organization was formally incorporated on February 23, 2022.

69. At or around this time, Stewart, who again had received no funding from Thomas to operate the organization prior to his death, began to solicit financing from friends and family.

70. Shortly thereafter, Stewart obtained a commitment from a close friend who promised to provide one million dollars in startup capital for the Gladiator's Hub.

71. With this capital commitment in hand, Stewart and the other board members began to work on the development of a website and on a marketing and fundraising platform which they hoped to disseminate throughout the professional sports community.

72. In furtherance of these promotional efforts, Stewart and the Board had planned extensively to host a week-long convention focused solely on the brain and mental health in May 2023 at the famous Broadmoor Hotel and Resort in Colorado Springs, had started a dialogue with the resort to secure 200 individual rooms for the event, and had obtained commitments from numerous high-profile guest speakers.

73. The above-mentioned million-dollar capital commitment was pledged by Stewart's friend to cover the cost of accommodations for 200 athletes, as well as the cost of reserving conference rooms, and for purchasing food and equipment for the convention.

74. The attendance fee for the convention including accommodation and activities were

expected to sell for \$30,000.00 per person, bringing in six million dollars in fundraising to support independent studies of CTE and treatments for brain injuries.

75. On or around February 11, 2022, Smith was interviewed by The Athletic magazine and advised the magazine that she was aware of her son's desire to donate his brain to science for the purpose of studying CTE because he wanted to help other players.

76. On July 5th, 2022 ABC's " Good Morning America" aired an interview with Smith, wherein she revealed that Thomas had been posthumously diagnosed with CTE and reiterated that her son had told her that if anything happened to him, he wanted his brain to be donated for scientific research to help others.³

77. In April 2022, after the Gladiator's Hub was incorporated and begin to solicit investment funds, Stewart and the other Board members approached Wright to request that Thomas' Estate donate to the organization.

78. At or around this time, Smith learned from a friend of Thomas that the organization had been established, and of a planned event to announce the formation of the foundation, at which time she immediately asked Wright what could be done to "shut it down."

79. On May 28, 2022, Stewart made her first public social media post promoting the Gladiator's Hub.

80. A month later, on June 27, 2022, in a discussion with Wright and Bobby Thomas, Smith asked Wright whether the Estate could take formal legal action to terminate or dissolve the Gladiator's Hub.

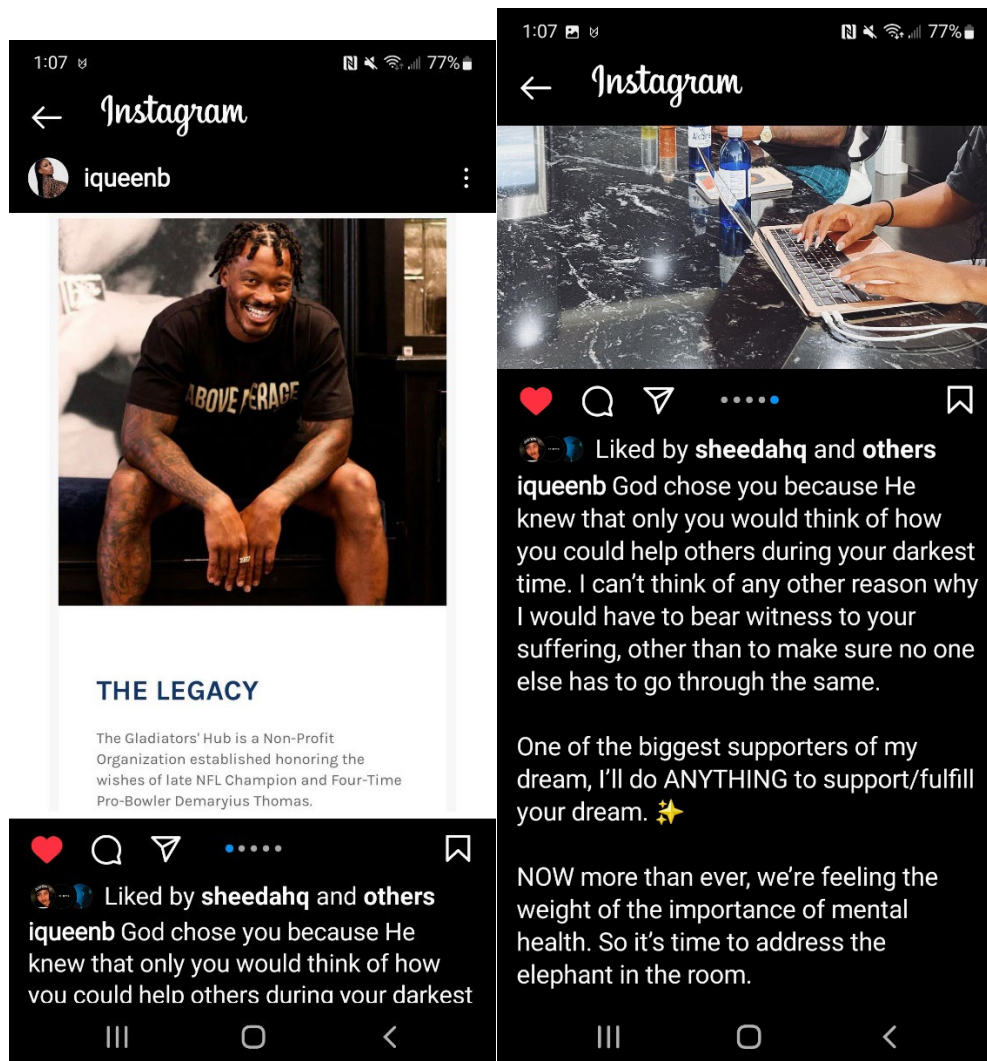
81. Wright advised Smith that the Estate did not have the ability to take such a course of action.

³ <https://www.goodmorningamerica.com/news/story/parents-late-nfl-star-demaryius-thomas-reveal-suffered-86209632>

82. At this time, Smith knew or clearly should have known, based on her proximity to Bobby Thomas, who was on the Hub's board of directors, and based on her very close relationship with Wright, who had been sent the slide deck for the Hub by Thomas in October 2021, that her son had devoted the better portion of the last year of his life towards creating the Gladiator's Hub.

83. On June 28, 2022, Stewart made a series of additional social media posts more aggressively promoting the Gladiator's Hub.

84. Posting to her Instagram account "iqueenb" Stewart shared photographs of Thomas



linking to the Hub's website and mission statement, writing "God chose you because he knew that only you would think how you could help others during your darkest time. I can't think of any reason why I would have to bear witness to your suffering, other than to make sure no one else has to go through the same..."

85. On June 28, 2022 despite her clear knowledge of the falsity of the below claims, Smith took to social media and defamed the Gladiator's Hub, writing under her Instagram handle "@stuckey.michelle," in response to the Gladiator's Hub public promotions:

"This is so not true. This is was [sic] not founded by DT. Do your own research and come to your own conclusions. It is sad the length some people will go through to try and get the credibility, respect and support DT have from so many people. To those of you who really knew THAT you should know what and whom he was passionate about. Trying to discredit me as his mother is the ultimate mistake and the biggest clue that many didn't know DT as they claim. The permission to try and create this nonprofit wasn't given by his father mor myself to ANYONE... the best thing ANYONE can do at this point is respect my son, because some people didn't allow him to experience peace on this earth while he was here... but I be damned if ANYONE will continue to try and attach his name to something or someone who wasn't part of his plan or future... Rest in Peace &Power my King LL88."

86. In the comments to Smith's post, several individuals discerned that Smith was impugning the actions of Plaintiff Bianca Stewart and questioned why Stewart would have misused Thomas' legacy to promote a charitable interest, and whether that in fact would be a bad thing at all.

87. In response to one of these commenters, Smith replied, cryptically, "do your research and you will see," further attributing sinister motives to Stewart.

88. Within 48 hours of Smith's Instagram post, at least six sports blogs and websites had published articles based on the social media story, repeating Smith's false claims that Thomas had not authorized the creation of the Gladiator's Hub, that its goals were not aligned with his personal interests, and further insinuating that Stewart and the other members of the

Board had acted without the permission of Thomas' family in moving forward with the formation of the organization.⁴

89. On June 29, 2022, Flipboard, a news media site with over five hundred million subscribers, reposted Smith falsehoods, providing publicity to a larger audience.

90. On June 29, 2022, Smith's post was also picked up and republished by the highly popular "WagsUnfiltered" Instagram account, which provided significant additional publicity to the false claims.

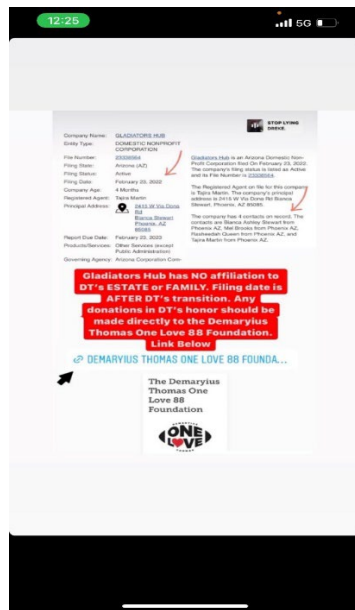
91. By June 30, 2022, NFL-London's Official Facebook page had reposted an article featuring the headline that Smith had "called out an NGO on Instagram" for "lying and falsely using Thomas' name," spreading the false narrative internationally.

92. Also by June 30, 2022, Google images had also publicly shared an image of the main page of the Hub's website, linked one of the false news stories parroting Smith's allegation that the Hub had "falsely used her son's name."

93. On July 2, 2022, Smith posted another story to her Instagram account containing a screenshot of the registry for the Gladiator's Hub the certificate of incorporation filing, writing "*Gladiators Hub has NO affiliation to DT's ESTATE or FAMILY. Filing date is AFTER DT's*

⁴ <https://www.sportskeeda.com/nfl/news-mother-late-broncos-wr-demaryius-thomas-says-ngo-incorrectly-used-son-s-name>; <https://sideaction.com/nfl/demaryius-thomas-mother-calls-out-non-profit-for-lying-using-his-name> <https://www.totalprosports.com/2022/06/29/demaryius-thomas-mom-calls-out-non-profit-on-instagram-for-lying-using-his-name-after-his-untimely-death-pic/>; <https://www.totalprosports.com/2022/06/29/demaryius-thomas-mom-calls-out-non-profit-on-instagram-for-lying-using-his-name-after-his-untimely-death-pic/>; <https://sportspyder.com/sports/nfl/articles/39938741>; <https://flipboard.com/@totalprosports/tps-opsh6hn3z/demaryius-thomas-mom-calls-out-non-profit-on-instagram-for-lying-using-his-na-a-GUIwIhPZQK6xnhjBtBuqMQ%3Aa%3A3726939799-9a76aba489%2Ftotalprosports.com>

transition. Any donations in DT's honor should be made directly to the Demaryius Thomas, One Love 88 Foundation. Link Below."



94. At the time of this writing on social media, Smith knew or should have known through her interactions with Bobby Thomas and Peter Wright that her claims were patently false, however, she chose yet again to defame the organization to which her son had devoted the better part of the last year of his life's work, and sought to redirect all charitable proceeds to her own, rival foundation.

95. Prior to Smith's July 2, 2022 Instagram post, neither Stewart nor other members of the Board had heard of the "One Love 88 Foundation."

96. Upon information and belief, the above-mentioned foundation is controlled and operated solely by Smith.

97. Smith's July 2, 2022 Instagram post was soon thereafter republished by "@kryazyk," a popular account with over 75,000 followers, providing wider publicity to the false claims contained therein.

98. On July 4, 2022, an Instagram account using the handle "kstyling87," featuring a

profile picture of Smith, began to publish additional defamatory writings about Stewart and The Gladiator's Hub on Instagram.

99. Upon information and belief, the "kstyling87" was an alternate account operated by Smith or on behalf of Smith, and was used by her as a tool to further promote her false claims about Stewart and the Hub.

100. In one post authored by "kstyling87" on July 4, 2022, she accused Stewart of "being a scammer" who was "using the [Gladiator's Hub] organization to continue to scam now that DT is gone and can't give her ... money."

101. In another post, "kstyling87" stated that Stewart had moved in with Thomas because "she had nowhere to go and took advantage of DT being sick and vulnerable."

102. In another post, "kstyling87" wrote "*last week miss T posted that an Organization was started called the Gladiator's Hub and it was not founded by #demaryiusthomas and they using his name for clout. I spent a week getting the full story to find that the org is a fraud and ran by a fraud. Stay tune [sic].*"

103. In additional posts, the account accused the organization of using Thomas' image to "[scam] people with a nonprofit DT never started or wanted ... and [using] they money to live a lavish lifestyle."

104. Finally, the account repeated Smith's prior false allegation that Stewart was having an affair with a professional athlete and that Thomas had learned of this and it had caused friction in his relationship with Stewart.

COUNT ONE (DEFAMATION)

105. The preceding paragraphs are repeated and reiterated as if more fully set forth herein.

106. As set forth above, Defendant Katina Smith repeatedly, maliciously, and knowingly uttered false statements of fact regarding both Plaintiff Bianca Stewart and Plaintiff the Gladiator's Hub.

107. Smith's false factual statements regarding the Plaintiffs were made orally and in writing through public social media postings.

108. The substance of Smith's false statements worked to undermine Stewart's personal and professional reputation as an entrepreneur and media figure in the sports and entertainment industry.

109. The substance of Smith's false statements regarding Stewart implied that she was untrustworthy in business and in personal relationships, that she was romantically promiscuous and unfaithful to Thomas during his lifetime, and further that she sought to exploit his status and wealth for the sole purpose of enriching herself.

110. Smith knew or should have known that these statements were false in light of the fact that she had previously commented in multiple public interviews that Thomas hoped to donate his brain to science for research into CTE and other degenerative brain diseases, her knowledge that her son was working for many months in the last year of his life to create the Gladiator's Hub, her knowledge that Bobby Thomas was a member of the Hub's board of directors, and her knowledge that Thomas himself had sent the Hub's slide deck to Peter Wright two months prior to his death.

111. As a result of Smith's false statements, Plaintiff Stewart's reputation has been severely and irreparably injured and tarnished, she has lost business and media opportunities, she has been caused to be looked upon with distrust and suspicion by friends and family and members of the Thomas family, and she has been unfairly disparaged in the public eye when in

fact she sacrificed nearly a year of her life to provide care and assistance to Thomas when he was in distress.

112. Particularly, Stewart has lost business opportunities to promote her clothing line which had received a prospective offer from an athlete-focused investment group led by prominent Georgia Tech Alumni. This group had also contemplated making charitable donations to the Gladiator's Hub.

113. As a further result of Smith's false statements regarding the Gladiator's Hub, the organization has suffered severe and extensive reputational and financial harm.

114. The Hub has lost out on its million-dollar capital commitment, as the athlete who had agreed to provide the large donation has been forced to recant his promise for fear of being tarnished by association with the false claims surrounding the organization circulated by Smith on social media.

115. The Hub has also been forced to cancel its planned annual convention at the Broadmoor Hotel, losing out on millions of dollars in initial fundraising which was projected to accrue from attendance fees, fundraising events, and donations, and being forced to cancel its roster of speakers.

116. The Hub has further suffered extensive reputational damage, as it has lost out on invaluable publicity opportunities in the wake of Smith's false claims, and has had offers of meetings and promising investment opportunities and partnerships with high profile sports figures and organizations pulled due to Smith's false claims.

117. Finally, and most tragically, Smith's false claims have worked to the greatest

detriment to her son Thomas' posthumous wishes and legacy, whereby he hoped to use his own life and his own suffering to advance the cause of athletes in distress through the charitable efforts of the Gladiator's Hub.

WHEREFORE, Plaintiffs demands judgment against Defendant on the First Count of the Complaint, for:

A. Compensatory, economic and consequential damages in the amount of \$2.5 million for each Plaintiff.

B. Costs of suit.

C. Attorney's fees.

D. Punitive Damages.

E. Any other relief which the Court may deem proper.

JURY DEMAND

Plaintiffs hereby demands a jury trial as to all issues so triable.

DATED: July 11, 2022

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